

Application No. 09/880,953  
Amendment Dated January 5, 2004  
In Reply to USPTO Office Action Dated October 3, 2003  
Confirmation No. 6002  
Attorney Docket No. 4194-030267

### **AMENDMENTS TO THE CLAIM**

The listing of the claim will replace all prior versions, and the listing of the claim in the application:

#### **Listing of the Claim**

Claim 1 (currently amended): A new and distinct ~~rootstock~~ variety of *Prunus* plant named 'VSL-2', as ~~described~~ herein described and illustrated.

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**RESPONSE UNDER 37 C.F.R. § 1.105**

The undersigned is advised that the public did not have access to the claimed variety until after January 11, 2001, the filing date of the instant application. Therefore, a rejection under 35 U.S.C. § 102(b) is wholly inappropriate.